

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Wassim Abedrabbo	Team: Squad #9	CCRB Case #: 201903890	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/23/2019 11:15 PM	Location of Incident: [REDACTED]	Precinct: 79	18 Mo. SOL 10/23/2020	EO SOL 6/9/2021	
Date/Time CV Reported Tue, 05/07/2019 10:44 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/07/2019 10:44 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Davila	14220	956571	079 PCT
2. POM Mohamed Elhanafi	15082	955897	079 PCT
3. POM Jarrett Nadal	19273	958970	079 PCT
4. POM Antonio Zorrilla	10893	961480	079 PCT
5. SGT John Zanca	01700	952366	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Moses Lebron	09546	956831	079 PCT
2. POM Michael Zweifler	14406	961483	079 PCT
3. POM Clint Elie	07909	955899	079 PCT
4. POF Sonya Senra	14981	956253	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Mohamed Elhanafi	Abuse: In front of 305 Hancock Street in Brooklyn, Police Officer Mohamed Elhanafi stopped § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Jarrett Nadal	Abuse: In front of 305 Hancock Street in Brooklyn, Police Officer Jarrett Nadal stopped § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Anthony Davila	Abuse: In front of 305 Hancock Street in Brooklyn, Police Officer Anthony Davila stopped § 87(2)(b) [REDACTED]	[REDACTED]
D.POM Mohamed Elhanafi	Discourtesy: In front of 305 Hancock Street in Brooklyn, Police Officer Mohamed Elhanafi spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Jarrett Nadal	Discourtesy: In front of 305 Hancock Street in Brooklyn, Police Officer Jarrett Nadal spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
F.POM Mohamed Elhanafi	Force: In front of 305 Hancock Street in Brooklyn, Police Officer Mohamed Elhanafi used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
G.POM Jarrett Nadal	Force: In front of 305 Hancock Street in Brooklyn, Police Officer Jarrett Nadal used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
H.SGT John Zanca	Abuse: In front of 305 Hancock Street in Brooklyn, Sergeant John Zanca searched the vehicle in which § 87(2)(b) [REDACTED] was an occupant.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
I.POM Antonio Zorrilla	Abuse: In front of 305 Hancock Street in Brooklyn, Police Officer Antonio Zorrilla searched the vehicle in which § 87(2)(b) was an occupant.	
J.POM Jarrett Nadal	Discourtesy: En route to the 78th Precinct Stationhouse, Police Officer Jarrett Nadal spoke discourteously to § 87(2)(b)	

Case Summary

On May 7, 2019, § 87(2)(b) filed the following complaint with the CCRB over the phone.

On April 23, 2019, outside of 305 Hancock Street, in Brooklyn, at approximately 11:15 p.m., § 87(2)(b) exited his gray 2009 Jaguar XL, which was parked next to a fire hydrant, when Police Officer Anthony Davila, Police Officer Mohamed Elhanafi, and Police Officer Jarrett Nadal, all of the 79th Precinct, arrived in an unmarked car, exited, and approached him (**Allegations A, B, and C – Abuse of Authority: Stop,** § 87(2)(g)). Upon approach, PO Elhanafi and PO Nadal allegedly said, “Get the fuck in the car,” and then grabbed § 87(2)(b) and pushed him against the hood of his car (**Allegations D and E – Discourtesy: Word,** § 87(2)(g)) (**Allegations F and G – Force: Physical force,** § 87(2)(g)).

Shortly after, additional officers, including Sergeant John Zanca and Police Officer Antonio Zorrilla, also of the 79th Precinct, responded to the location as back up. Sgt. Zanca searched § 87(2)(b) car for its’ keys (**Allegation H – Abuse of Authority: Vehicle search,** § 87(2)(g)). PO Zorrilla took a tote bag out of the back seat of the vehicle, looked inside of it, and handed it to a female who stated that it belonged to her (**Allegation I – Abuse of Authority: Vehicle search,** § 87(2)(g)).

Ultimately, § 87(2)(b) was placed in handcuffs and transported to the 78th Precinct stationhouse. En route to the stationhouse, PO Nadal allegedly called § 87(2)(b) a “fucking wiseass” (**Allegation J – Discourtesy: Word,** § 87(2)(g)).

§ 87(2)(b) was arrested and charged with § 87(2)(b) and additional violations in relation to this incident (**Board Review 09**).

The investigation obtained BWC video in relation to this complaint (**Board Review 10**).

Findings and Recommendations

Allegation (A) Abuse of Authority: In front of 305 Hancock Street in Brooklyn, Police Officer Mohamed Elhanafi stopped § 87(2)(b)

Allegation (B) Abuse of Authority: In front of 305 Hancock Street in Brooklyn, Police Officer Jarrett Nadal stopped § 87(2)(b)

Allegation (C) Abuse of Authority: In front of 305 Hancock Street in Brooklyn, Police Officer Anthony Davila stopped § 87(2)(b)

It is undisputed that § 87(2)(b) was the operator of his vehicle just before he exited it, no one was seated in the front passenger seat, and the vehicle was stopped immediately in front of a fire hydrant.

Vehicle and Traffic Law §1202 (b)(1) (Board Review 20). No person shall leave a vehicle stopped, standing, or parked within 15 feet of a fire hydrant without a licensed operator seated in the front seat.

§ 87(2)(g)

Allegation (D) Discourtesy: In front of 305 Hancock Street in Brooklyn, Police Officer Mohamed Elhanafi spoke discourteously to § 87(2)(b)

Allegation (E) Discourtesy: In front of 305 Hancock Street in Brooklyn, Police Officer Jarrett Nadal spoke discourteously to § 87(2)(b)

It is undisputed that when the officers approached § 87(2)(b) vehicle, he was in the middle of exiting his vehicle. It is also undisputed that § 87(2)(b) was instructed by PO Elhanafi to get back into his car after § 87(2)(b) exited and began to walk away from the vehicle.

During his CCRB interview, § 87(2)(b) stated that upon approach, PO Nadal and PO Elhanafi immediately told him to “get the fuck in the car.”

PO Elhanafi stated that § 87(2)(b) refused to get back in the car after he walked away (Board Review 05). He did not tell § 87(2)(b) to “get the fuck in the car.”

PO Nadal asked § 87(2)(b) to get back in the car; however, he did not tell him to “get the fuck in the car” (Board Review 06).

PO Davila did not remember hearing PO Nadal or PO Elhanafi say, “get the fuck in the car” (Board Review 18).

The investigation obtained the BWC footage of PO Nadal and PO Elhanafi capturing the incident in question (Board Review 01) (Board Review 02). As is standard with NYPD issued BWCs, the audio in the recording begins at 30 seconds. At the time the audio begins in both videos, PO Nadal had met § 87(2)(b) in the direction he was walking and begun to walk him back to the driver side of the vehicle. PO Davila’s BWC does not start until § 87(2)(b) is already standing at the driver side of his vehicle with the officers around him (Board Review 03). Of the portions in each officer’s BWC video where there is audio, neither PO Elhanafi or PO Nadal are heard saying “get the fuck in the car.”

§ 87(2)(g)

Allegation (F) Force: In front of 305 Hancock Street in Brooklyn, Police Officer Mohamed Elhanafi used physical force against § 87(2)(b)

Allegation (G) Force: In front of 305 Hancock Street in Brooklyn, Police Officer Jarrett Nadal used physical force against § 87(2)(b)

§ 87(2)(b) stated that after making the alleged statement above, PO Nadal and PO Elhanafi grabbed him and pushed him against the hood of his car and handcuffed him. He did not account for his actions or other events that happened between the officers cursing and pushing him against the hood of the vehicle (Board Review 04).

At approximately 42 seconds in the video footage captured by the BWCs of both PO Nadal and PO Elhanafi, § 87(2)(b) attempts to flee (Board Review 01) (Board Review 02). This attempt comes after § 87(2)(b) walks away and is escorted by officers back to his vehicle at the immediate start of the interaction. In response, PO Nadal and PO Elhanafi grab him at his upper body and arms and then put the front of his body against the hood of his vehicle and place him in handcuffs.

Patrol Guide Procedure 221-01 (Board Review 19). In determining whether use of force is reasonable, members of service should consider actions taken by the subject, whether they are resisting custody, and whether they are attempting to evade arrest by flight.

§ 87(2)(g)

Allegation (H) Abuse of Authority: In front of 305 Hancock Street in Brooklyn, Sergeant John Zanca searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that § 87(2)(b) was arrested and charged with Driving While Intoxicated (**Board Review 09**). It is also undisputed that § 87(2)(b) gray 2009 Jaguar was seized and that the car and the property inside the car were vouchered in relation to the arrest (**Board Review 13**).

In PO Elhanafi's BWC footage, at the 8:20 VLC timestamp, he asks § 87(2)(b) if he had the key to his vehicle in his possession. § 87(2)(b) says, "No car key...I'm not driving. No car key, no car key." At 8:48, PO Elhanafi informs Sgt. Zanca that he did not get the car key from § 87(2)(b).

In the BWC footage captured by Sgt. Zanca's BWC, at the VLC 1:30 timestamp, PO Elhanafi informs Sgt. Zanca that he intended on removing the vehicle to the stationhouse, but he could not find the key to the vehicle (**Board Review 14**). Officers, including Sgt. Zanca, enter § 87(2)(b) car to search for the keys. At 3:00, an officer, who is outside the frame of the camera, informs Sgt. Zanca that he found the keys. Sgt. Zanca then immediately instructs all officers to begin leaving the scene, along with § 87(2)(b) who had been placed in an NYPD vehicle. At 4:17, Sgt. Zanca instructs an officer, who is off screen, to "take [the car] back" to the stationhouse.

Patrol Guide Procedure 208-40 (Board Review 15) Upon arresting a person for operating a vehicle under the influence of Alcohol, the supervisor must facilitate the vehicle's removal to the precinct for safe keeping.

§ 87(2)(g)

Allegation (I) Abuse of Authority: In front of 305 Hancock Street in Brooklyn, Police Officer Anthony Zorrilla searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that § 87(2)(b) was intoxicated at the time of this incident, and that he was arrested on charges of Driving While Intoxicated (**Board Review 07**) (**Board Review 09**). It is also undisputed that the bag PO Zorrilla solely searched was in the backseat of the vehicle that § 87(2)(b) drove while intoxicated.

At the 46 second VLC timestamp of PO Zorrilla's BWC footage, an unidentified female, who is outside the video frame, informs PO Zorrilla that she wanted her bag from the back seat of § 87(2)(b) vehicle and then tells him that it is the "burgundy" bag (**Board Review 16**). PO Zorrilla walks to the back-driver side door of the vehicle, looks into the bag between approximately 1:00 and 1:08, and then returns the bag to the unidentified female.

People v. Belton, 55 N.Y.2d 49 (1982) (**Board Review 17**). A valid arrest for a crime authorizes a warrantless search of a vehicle and of a closed container visible in the passenger compartment of the vehicle if the vehicle was used in the commission of the crime. The search must be for a reasonable time and to a reasonable extent.

§ 87(2)(g)

Allegation (J) Discourtesy: En route to the 78th Precinct Stationhouse, Police Officer Jarrett Nadal spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that while PO Nadal, PO Elhanafi, and Police Officer Anthony Davila were transporting him to the 78th Precinct stationhouse, PO Nadal called him a “fucking wiseass.”

Upon review of PO Nadal’s BWC video, between VLC timestamps 10:10 and 17:40, PO Nadal does not call § 87(2)(b) a “fucking wiseass” at any point (**Board Review 01**).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to one other CCRB complaint and has been named as a victim in three allegations (**Board Review 08**):
 - § 87(2)(b)
- PO Nadal has been a subject of four other allegations of misconduct in two other cases during his four-year tenure with the NYPD, none of which were substantiated. § 87(2)(g) (see officer history).
- PO Elhanafi has been a subject of 22 other allegations of misconduct in five other cases during his five-year tenure with the NYPD, none of which were substantiated. § 87(2)(g) (see officer history).
- PO Davila has been a subject of 13 other allegations of misconduct in four other cases during his five-year tenure with the NYPD, none of which were substantiated. § 87(2)(g) (see officer history).
- PO Zorrilla has been a subject of three other allegations of misconduct in two other cases during his four-year tenure with the NYPD, none of which were substantiated. § 87(2)(g) (see officer history).
- Sgt. Zanca has been a subject of 22 other allegations of misconduct in eight other cases during his eight-year tenure with the NYPD, of which one allegation was substantiated (see officer history):
 - Case number 201500673 involved a substantiated allegation of a vehicle search against Sgt. Zanca. The Board recommended formalized raining and the NYPD imposed formalized training.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- A request for any Notice of Claim related to this incident was sent to the New York City Comptroller's Office on July 24, 2019. There has been no response as of the date of this report (**Board Review 11**).

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date